

FEB 23 1978

MICHAEL RODAK, JR., CLERK

In the Supreme Court of the United States

OCTOBER TERM, 1977

No. 77-987

C. JOHN FORGE, JR., JAMES OLSON,
RICHARD LARSON,
Appellants,

vs.

STATE OF MINNESOTA,
Appellee.

ON APPEAL FROM THE SUPREME COURT OF THE STATE
OF MINNESOTA

**ADDITIONAL APPENDIX TO JOINT
JURISDICTIONAL STATEMENT**

C. JOHN FORGE, JR.

Central Professional Building
Suite 120
221 West Lexington
Independence, Missouri 64050
Pro Se

ALBERT L. HENCKE

221 W. Lexington
Independence, Missouri 64050
Telephone (816) 252-2133

*Attorney for James Olson and
Richard Larson*

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APPENDIX E

STATE OF MINNESOTA
COUNTY OF CASS
IN DISTRICT COURT
NINTH JUDICIAL DISTRICT

State of Minnesota,
Plaintiff,

vs.

C. John Forge, James Olson, Richard C. Larsen,
Defendant.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The above-entitled matters came on for trial before the Honorable James F. Murphy, deceased, without a jury, by consent of all parties, in the Courthouse, in the City of Walker, County of Cass and State of Minnesota, on the 19th day of September, 1973, on appeal from the County Court of Cass County, Minnesota; in which the Honorable Keith L. Kraft, a non-lawyer County Judge of Cass County, Minnesota, found the defendants guilty of violating Chapter 124 of the Laws of the State of Minnesota for the year 1973, now being M.S.A. 97.431. Mr. Robert Carolan, Assistant Attorney General, Mr. Michael J. Haas, Assistant Cass County Attorney, appeared in behalf of the State of Minnesota. Mr. C. John Forge, Jr., appeared pro se, Mr. James Olson appeared pro se, and Mr. Richard C. Larsen consented that any decision herein shall be binding upon him the same as if he had personally appeared before the Court. In addition thereto the Court allowed Attorney C. John Forge, Jr., to appear, although he is not admitted to practice before the Courts in the State of Minnesota, but is a duly qualified, licensed and practicing attorney in the

State of Missouri. In addition thereto Mr. George Cardinal has filed a brief amicus curiae in behalf of the defendants.

That due to the death of the Honorable James F. Murphy, before a decision was rendered herein, the parties hereto and in open court in August of 1974, agreed to submit the matter to the undersigned based upon the transcript of the proceedings herein before held, and upon such additional argument, memorandum, and files and records agreed upon by the parties to be furnished to the Court. That all matters now having been submitted to the Court and after due consideration of all the files and records herein, the Court makes the following:

FINDINGS OF FACT

1. That C. John Forge, Jr., is a resident of the State of Missouri. That James Olson is a resident of St. Paul, Ramsey County, Minnesota. That Richard C. Larsen is a resident of Cass County, Minnesota.

2. That on June 22, 1973, between the hours of 8:00 and 9:00 o'clock P. M., the defendants were fishing within the boundaries of the Leech Lake Reservation, better known for the purpose of this hearing as Leech Lake Settlement Area. That at said time each of said defendants possessed a valid fishing license issued by the State of Minnesota for the year 1973, but that said defendants had not obtained a special license relating to license fees for persons who are not members of the Minnesota Chippewa Tribe for the privilege of fishing within the reservation heretofore mentioned.

3. That none of the defendants are members of the Minnesota Chippewa Tribe.

4. That defendants contend that Chapter 124 of the Laws of Minnesota for the year 1973 is unconstitutional and, therefore, they are not guilty of any crime, but admit

that they were violating said law if said law is held to be constitutional.

And from the foregoing, the Court makes the following:

CONCLUSIONS OF LAW

1. That each of the defendants be and he is herewith found guilty of violating Chapter 124 of the Laws of Minnesota for the year 1973, now coded as M.S.A. 97.431, and that each of said defendants be and he is herewith sentenced to pay a fine in the sum of Twenty Dollars (\$20.00), that being the fine set by the lower court, and that upon the failure to pay said fine that said defendant be and he is herewith sentenced to imprisonment in the Cass County Jail for a period of two (2) days.

IT IS ORDERED that the payment of the fine or the imprisonment imposed herein be and the same is herewith stayed during the time necessary for the taking of an appeal to the Supreme Court of the State of Minnesota and that pursuant to Rule 29.02, Subdivision 6 (4) the defendants are granted an additional thirty day period within which to seek permission from the Supreme Court of the State of Minnesota to appeal the conviction herein.

IT IS FURTHER ORDERED that if no appeal is taken within the time for taking said appeal that the fine shall be ordered paid forthwith thereafter or the imprisonment ordered served.

Let the attached memorandum be made a part hereof. Dated this 7th day of November, 1975.

BY THE COURT:

/s/ James E. Preece
James E. Preece,
Judge of the District Court.

APPENDIX F

IN THE
SUPREME COURT OF THE STATE OF MINNESOTA

No. 473

C. JOHN FORGE, JR,
Appellant,

vs.

STATE OF MINNESOTA,
Respondent.

*Filed
12-1-77*

**NOTICE OF APPEAL TO THE SUPREME COURT
OF THE UNITED STATES**

I

Notice is hereby given that C. John Forge, Jr. the Appellant above named, hereby appeals to the Supreme Court of the United States from the final order of the Supreme Court of the State of Minnesota affirming the judgment of conviction entered herein on October 14, 1977.

This appeal is taken pursuant to 28 USC §1157 (1) and (2).

Appellant was convicted of the crime of fishing within the "Leech Lake Reservation" without a valid Indian license stamp in violation of 97.431 Minnesota Revised Statutes; was sentenced to a fine of Ten Dollars (\$10.00) or 10 days in jail and is presently enlarged on bail in the amount of One Hundred Dollars (\$100.00).

II

The clerk will please prepare a transcript of the record in this cause, for transmission to the Clerk of the Supreme

Court of the United States, and include in said transcript the following:

- a) Transcript from the trial court.
- b) Findings of Fact and conclusions of law with supporting memorandum from the Cass County District Court.
- c) Copies of the following briefs:
 - (1) Brief of Appellant.
 - (2) Brief of State of Minnesota
 - (3) Amicus Brief of United States Attorney's
 - (4) Amicus Brief of Leech Lake Bank of Chippewa Indians.
- d) Oral Argument of all parties before Court.
- d) Decision of the Supreme Court of Minnesota.

III

The following questions are presented by this appeal.

1. Whether 97.431 Minnesota Revised Statutes denies to non-members of the Minnesota Chippewa Tribe equal protection of the laws as forbidden by the Fourteenth Amendment to the Constitution and is an invidious classification based solely on racial ancestry and the decision was in favor of its validity.

2. Whether the settlement agreement incorporated in 97.431 between the State of Minnesota and the Leech Lake Bank of Chippewa Indians creates an Indian Reservation in violation of Article 1, Section 10 (1) of the United States Constitution and Article 1, Section 8 (3) of the United States Constitution.

3. That the decision in favor of the agreement incorporated into 97.431 invalidates Section 81 of Title 25 United States Code by holding an agreement with an Indian Tribe valid which failed to bear on its face the approval of the Secretary of the Interior and the endorsement of the Commissioner of Indian Affairs as required by 25 USC §81 (2) and further invalidates the last paragraph thereof which reads:

"All contracts or agreements made in violation of the section shall be null and void. . . ."

4. That the decision invalidated the Act of Congress of 19 December, 1854, 10 Statutes at Large 598 (provision four) and Article 1 of the Treaty with the Chippewa of 22 February, 1855, 10 Statutes 1165.

5. That the decision and the agreement incorporated under 97.431 Minnesota Revised Statutes invalidates Article 8 of the Treaty with the Chippewa of the Mississippi of 19th March, 1867, 16 Statutes 719.

6. That the agreement between the State of Minnesota and the Leech Lake Band of Chippewa Indians incorporated in 97.431 Minnesota Revised Statutes consolidated three separate tracts and areas specified by the Treaty with the Chippewa of 22 February, 1855, 10 Statutes 1165 and other tracts specified in later treaties and presidential proclamations along with areas heretofore outside any former Indian Reservations into a single amalgamated reservation under the Leech Lake Band of Chippewa Indians without the approval of the Congress of the United States or any other branch of the Federal Government in violation of Article 1, Section 8 (3) and Article 1, Section 10 of the United States Constitution and more particularly set out in the case of *United States v. Minnesota* 95 F2 468, affd 305 US 382, 83 L ed 235, 595 Ct. 292.

7. That the decision invalidates the cessions and terminations of interest in land by the Chippewas as provided by the Nelson Act of 1889, 25 Statutes 642.

8. That the decision of the Supreme Court of Minnesota ascribes rights to the Leech Lake Band of Chippewa Indians under the treaty of March 19, 1867 to which treaty the said Band was not a signatory.

9. That the agreement incorporated in 97.431 Minnesota Revised Statutes transfers property belonging to the federal government under the Act of Congress creating National Forests (Title 16 §471) from the National Forest to the use and benefit of the Leech Lake Band of Chippewa Indians.

HENCKE AND FORGE

/s/ C. John Forge, Jr.

C. John Forge, Jr.

Suite 120, 221 W. Lexington

Independence, Missouri 64050

(816) 252-2133

Attorneys for Appellant

I, _____ Assistant Attorney General of the State of Minnesota hereby acknowledges receipt of a copy of the foregoing Notice of Appeal to the Supreme Court of the United States this _____ day of _____, 1977.

APPENDIX G

IN THE
SUPREME COURT OF THE STATE OF MINNESOTA

No. 16,478

RICHARD C. LARSEN,
Appellant,

vs.

STATE OF MINNESOTA,
Respondent.

*Filed
12-21-77*

**NOTICE OF APPEAL TO THE SUPREME COURT
OF THE UNITED STATES**

I.

Notice is hereby given that Richard C. Larsen, the Appellant named above, hereby appeals to the Supreme Court of the United States from the final order of the Supreme Court of the State of Minnesota affirming the judgment of conviction entered herein on October 14, 1977.

This appeal is taken pursuant to 28 USC §1157 (1) and (2).

Appellant was convicted of the crime of fishing within the "Leech Lake Reservation" without a valid Indian License stamp in violation of 97.431 Minnesota Revised Statutes; was sentenced to a fine of Ten Dollars (\$10.00) or 10 days in jail and is presently enlarged on bail in the amount of One Hundred Dollars (\$100.00).

II.

The clerk will please prepare a transcript of the record in this cause, for transmission to the Clerk of the Supreme

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- d) Oral Argument of all parties before Court.
- e) Decision of the Supreme Court of Minnesota.

III.

The following questions are presented by this appeal.

1. Whether 97.431 Minnesota Revised Statutes denies to non-members of the Minnesota Chippewa Tribe equal protection of the law as forbidden by the Fourteenth Amendment to the Constitution and is an invidious classification based solely on racial ancestry and the decision was in favor of its validity.

2. Whether the settlement agreement incorporated in 97.431 between the State of Minnesota and Leech Lake Band of Chippewa Indians creates an Indian Reservation in violation of Article 1, Section 10, (1) of the United States Constitution and Article 1, Section 8 (3) of the United States Constitution.

3. That the decision in favor of the agreement incorporated into 97.431 invalidates Section 81 of Title 25 United States Code by holding an agreement with an Indian Tribe valid which failed to bear on its face the approval of the Secretary of the Interior and the endorsement of the Commissioner of Indian Affairs as required by 25 USC §81 (2) and further invalidates the last paragraph thereof which reads.

"All contracts or agreements made in violation of the section shall be null and void. . . ."

4. That the decision invalidated the Act of Congress of 19 December, 1854, 10 Statutes at Large 598 (provision four) and Article 1 of the Treaty with the Chippewa of 22 February, 1855, 10 Statutes 1165.

5. That the decision and the agreement incorporated under 97.431 Minnesota Revised Statutes invalidates Article 8 of the Treaty with the Chippewa of the Mississippi of the 19th of March, 1867, 16 Statutes 719.

6. That the agreement between the State of Minnesota and the Leech Lake Band of Chippewa Indians incorporated in 97.431 Minnesota Revised Statutes consolidated three separate tracts and areas specified by the Treaty with the Chippewa of 22 February, 1855, 10 Statutes 1165 and other tracts specified in later treaties and presidential proclamations along with areas heretofore outside any former Indian Reservations into a single amalgamated reservation under the Leech Lake Bank of Chippewa Indians without the approval of the Congress of the United States or any other branch of the Federal Government in violation of Article 1, Section 8 (3) and Article 1, Section 10 of the United States Constitution and more particularly set out in the case of *United States v. Minnesota* 95 F2 468, affd 305 US 382 Led 235, 595 Ct. 292.

7. That the decision invalidates the cessions and terminations of interest in land by the Chippewas as provided by the Nelson Act of 1889, 25 Statutes 642.

8. That the decision of the Supreme Court of Minnesota ascribes rights to the Leech Lake Band of Chippewa Indians under the treaty of March 19, 1867 to which treaty the said Band was not a signatory.

9. That the agreement incorporated in 97.431 Minnesota Revised Statutes transfers property belonging to the Federal government under the Act of Congress creating National Forest (Title 16 §471) from the National Forest to the use and benefit of the Leech Lake Band of Chippewa Indians.

/s/ John H. Martin

John H. Martin

506 Minnesota Building

St. Paul, Minnesota 55101

222-2797 (612)

Attorney for Appellant

I, _____ Assistant Attorney General of the State of Minnesota hereby acknowledges receipt of a copy of the foregoing Notice of Appeal to the Supreme Court of the United States this ____ day of _____, 197____.

APPENDIX H

IN THE
SUPREME COURT OF THE STATE OF MINNESOTA

No. 46,478

JAMES OLSON,

Appellant,

vs.

STATE OF MINNESOTA,

Respondent.

**NOTICE OF APPEAL TO THE SUPREME COURT
OF THE UNITED STATES**

I.

Notice is hereby given that James Olson, the Appellant named above, hereby appeals to the Supreme Court of the United States from the final order of the Supreme Court of the State of Minnesota affirming the judgment of conviction entered herein on October 14, 1977.

This appeal is taken pursuant to 28 USC §1157 (1) and (2).

Appellant was convicted of the crime of fishing within the "Leech Lake Reservation" without a valid Indian License stamp in violation of 97.431 Minnesota Revised Statutes; was sentenced to a fine of Ten Dollars (\$10.00) or 10 days in jail and is presently enlarged on bail in the amount of One Hundred Dollars (\$100.00).

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2. Whether the settlement agreement incorporated in 97.431 between the State of Minnesota and the Leech Lake Band of Chippewa Indians creates an Indian Reservation in violation of Article 1, Section 10, (1) of the United States Constitution and Article 1, Section 8 (3) of the United States Constitution.

3. That the decision in favor of the agreement incorporated into 97.431 invalidates Section 81 of Title 25 United States Code by holding an agreement with an Indian Tribe valid which failed to bear on its face the approval of the Secretary of the Interior and the endorsement of the Commissioner of Indian Affairs as required by 25 USC §81 (2) and further invalidates the last paragraph thereof which reads;

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/s/ John H. Martin

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506 Minnesota Building

St. Paul, Minnesota 55101

(612) 222-2797

Attorney for Appellant

I, Assistant Attorney General of the State of Minnesota hereby acknowledges receipt of a copy of the foregoing Notice of Appeal to the Supreme Court of the United States this day of, 197....